

LEGAL NOTICE
Notice of Proposed Rulemaking
Public Hearing

Notice is hereby given of proposed rulemaking and public hearing by the Department of Labor and Industrial Relations, Hawaii Occupational Safety and Health Division (HIOSH), to Parts 2, 3, 5, 6, 7, and 8 of Title 12, Subtitle 8, Hawaii Administrative Rules (HAR), pursuant to the Hawaii Occupational Safety and Health Law, Section 396-4, Hawaii Revised Statutes (HRS), and the Hawaii Administrative Procedure Act, Chapter 91, HRS.

The purpose of these rules are to adopt safety and health standards that meet or exceed Federal Occupational Safety and Health Administration standards in providing safe and healthful work places for Hawaii's workers.

The public hearing will consider the adoption of chapter 12-157 and section 12-202-42, relating to, Chromium (VI), and amendments to the General Industry Standards, 12-64.1, Personal Protective Equipment, 12-73.1, Materials Handling and Storage, 12-74.1, Hazardous Materials, 12-77.1, Logging and Wood Processing, and 12-97.1, Commercial Diving Operations; amendments to the Construction Standards, 12-128.1, Diving, 12-133.2, Steel Erection, 12-134.1, Underground Construction, Caissons, Cofferdams, and Compressed Air, 12-145.1 Asbestos, 12-146, 4,4-Methylenedianiline, 12-147, Cadmium, 12-148, Lead, and 12-156, Rollover Protective Structures; Overhead Protection; amendments to the 12-170, Occupational Safety and Health Standards for Shipyard Employment; 12-180, Marine Terminals; 12-190, Safety and Health Regulations for Longshoring; and amendments to the Health Standards, 12-200.1, Occupational Noise Exposure, 12-202, Toxic Materials and Harmful Physical Agents, 12-205.1, Bloodborne Pathogens, and 12-206, Asbestos.

The proposed adoptions:

1. Chapter 12-157, Chromium (VI), and section 12-202-42, Chromium (VI) are incorporations of the new federal occupational safety and health Chromium (VI) standards. As a result of the adoption of the Chromium (VI) standards amendments are being made to Tables 202-1 and 202-2 in section 12-202-4.02, and chapters 12-170, Occupational Safety and Health Standards for Shipyard Employment, 12-180, Marine Terminals, and 12-190, Safety and Health Regulations for Longshoring. The federal standard sets a new permissible exposure limit (PEL) of 5 micrograms of Chromium (VI) per cubic meter of air ($5\mu\text{g}/\text{m}^3$) for an 8-hour time weighted average. The new standard is identical for general industry, construction, shipyard employment, marine terminals, and longshoring with the exception of general industry. General industry has additional requirements for regulated areas and housekeeping. There are three exceptions to what the standard will cover. Those exceptions are: 1) exposures that occur during the application of pesticides, which are covered by the Environmental Protection Agency, 2) exposures to Portland cement, and 3) operations where employers can demonstrate that hexavalent chromium will

not be released at concentrations above the $.5\mu\text{g}/\text{m}^3$ under any expected conditions of use.

The proposed amendments include:

1. Chapters 12-64.1, Personal Protective Equipment; 12-73.1, Materials Handling and Storage; 12-74.1, Hazardous Materials, 12-77.1, Logging and Wood Processing; 12-97.1, Commercial Diving Operations, 12-128.1, Diving; 12-133.2, Steel Erection, 12-134.1, Underground Construction, Caissons, Cofferdams, and Compressed Air, 12-145.1, Asbestos, 12-146, 4,4-Methylenedianiline, 12-147, Cadmium, 12-148, Lead, 12-170, Occupational Safety and Health Standards for Shipyard Employment, 12-200.1, Occupational Noise Exposure, 12-202, Toxic Materials and Harmful Physical Agents, 12-205.1, Bloodborne Pathogens, and 12-206, Asbestos, are being amended to update outdated non-substantive and nomenclature references. Most of the above-mentioned standards contain effective dates or startup dates that have expired. The expired dates as well as the references to the dates are being removed. Many of these standards also have references to other standard numbers that are erroneous and are also being removed.
2. Chapters 12-73.1, Materials Handling and Storage and 12-156, Roll-Over Protective Structures; Overhead Protection, are being amended. The amendment will reinstate the technical requirements that were in the standards in 1996 for roll-over protective structures. In 1996 OSHA adopted references to national consensus standards and later discovered that the differences between the national consensus standards and the original standards were substantive. Hence OSHA has decided to repeal the references to the national consensus standards and re-instate the original standard for roll-over protective structures.
3. Chapter 12-133.2, Steel erection, is being amended to reflect the deletion of paragraph 12-133.2-6(c)(3), pertaining to, structural steel assembly, and the “Appendix B to Chapter 12-133.2 – Acceptable Test Methods For Testing Slip Resistance of Walking/Working Surfaces (Section 12-133.2-6(c)(3)). Non-Mandatory Guidelines for Complying with Section 12-133.2-6(c)(3).” When this standard was adopted in 2001, the provision requiring slip resistance on the surface of the steel was to take effect for steel installed after July 18, 2006. After the adoption of the standard there has been no significant progress on the suitability of the test methods or the availability of coatings that would meet the slip resistant requirements of the provision. Due to this lack of progress OSHA has decided to delete the slip resistance requirement.

A copy of the proposed rule changes will be made available for public viewing from the first working day that the legal notice appears in the Honolulu Star Bulletin, The Honolulu Advertiser, Hawaii Tribune Herald, West Hawaii Today, The Maui News, and The Garden Island, through the day the public hearing is held, from Monday-Friday between the hours of 1:00 p.m. - 4:00 p.m., at the following locations: 830 Punchbowl Street, Room 425, Honolulu,

Hawaii 96813; 2264 Aupuni Street, Wailuku, Hawaii 96793; 75 Aupuni Street, Hilo, Hawaii 96720; and 3060 Eiwa Street, Lihue, Hawaii 96766. A copy of the proposed rules may be viewed at our website at <http://hawaii.gov/labor>, or obtained by submitting a request with a prepaid fee of \$2.25 for the copy and \$2.31 postage to 830 Punchbowl Street, Room 425, Honolulu, Hawaii 96813, or by calling (808) 586-9086.

Interested persons may present, at the public hearing, any written or oral data, views, arguments, comments, and objections concerning the proposals at:

HONOLULU, OAHU

November 3, 2006, 1:00 p.m.
Keelikolani Building
830 Punchbowl Street
Room 427
Honolulu, Hawaii 96813

The public hearing will be continued, if necessary, to a time, date, and place announced at the scheduled hearing.

Interested persons unable to attend the public hearing, may submit written data, views, arguments, comments, and objections concerning the proposals to the Hawaii Occupational Safety and Health Division, 830 Punchbowl Street, Room 425, Honolulu, Hawaii 96813. All submissions for the record must be received at or prior to the scheduled public hearing.

Auxiliary aids and services are available upon request by calling the Administration and Technical Support Branch at (808) 586-9086 (voice), (808) 586-8847 (TTY), or 1-888-569-6859 (TTY neighbor islands). A request for reasonable accommodations should be made no later than ten working days prior to the needed accommodations.

Dated: October 4, 2006

NELSON B. BEFITELE
Director
Department of Labor and
Industrial Relations